

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, ET AL.,

Plaintiffs,

v.

AMERICAN AIRLINES GROUP INC. and
JETBLUE AIRWAYS CORPORATION,

Defendants.

Civil Action No. 1:21-cv-11558-LTS

JOINT STATUS REPORT

Following their July 19, 2023 submissions of revised proposed final judgments and supporting memoranda in response to the Court's Order of July 10, 2023, *see* Dkts. 368 to 370-3, the parties have continued to negotiate disputed injunction terms, including the definition of "Covered Agreements" in Section I.G of their respective proposals and the scope of Section III.C. The parties write to inform the Court that they have reached agreement on these provisions. Specifically, the parties jointly propose the following language:

Section I.G: "Covered Agreement" means any agreement, partnership, or joint venture that provides, in whole or in part, for any or all of the following:

- a. codesharing or arrangements functionally similar to codesharing (for the avoidance of doubt, this provision does not include interline agreements);
- b. sharing or pooling of revenues earned from air passenger services (for avoidance of doubt, sharing or pooling of revenues does not include allocation of revenues from interline agreements, or otherwise compensating another carrier for services rendered, such as for carrying a customer pursuant to a re-protect agreement);

- c. discussion or any other communications about the routes on which to offer air passenger service, or of the frequency or capacity of air passenger service flights on any route or routes; or
- d. sale, lease, or sharing of Slots, excluding agreements that will last up to one IATA season and do not include a renewal provision.

The parties note that there remains a dispute regarding whether Defendants should be required to provide notice to the U.S. Department of Justice and Plaintiff States of Covered Agreements with other Domestic Air Carriers (Section V.B) or just each other.

Section III.C: Defendants shall not share revenues pursuant to the MGIA with respect to flights flown after July 18, 2023. For avoidance of doubt: (1) With respect to tickets or itineraries issued or sold before July 18, 2023 by one Defendant for any flight or segment flown by the other Defendant after July 18, 2023, Defendants may compensate one another pursuant to their Special Prorate Agreement or Frequent Flyer Agreements; (2) Defendants may complete the audit, reconciliation and payment processes set forth in the NEA Agreements in order to settle their obligations to one another with respect to flights flown on or before July 18, 2023, consistent with the relevant terms of the NEA Agreements.

Updated copies of Plaintiffs' Revised Proposed Final Judgment and Order Entering Permanent Injunction (previously submitted as Exhibit 2 to Plaintiffs' memorandum, Dkt. 369-2) and Defendants' Revised Proposed Final Judgment and Order Entering Permanent Injunction, (previously submitted as Exhibit A to Defendants' memorandum, Dkt. 370-1), and a redline of the two proposals, are attached as Exhibits A-C, respectively.

Dated: July 25, 2023

Respectfully submitted,

/s/ Christopher S. Yates

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and on behalf of the Plaintiff States*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, which was filed with the Court through the CM/ECF system, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing.

/s/ Christopher S. Yates
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